

27.02.2023
Item No. 22
Crt.No.11
b.r.

MAT 165 of 2023
in
IA No. CAN 1 of 2023
Visva Bharati & Ors.
-vs-
Debotosh Sinha

Mr. Abhisek Baran Das
Mr. Sudipta Nayan Ghosh
..... for the appellants.

Mr. Subir Sanyal
Ms. Sumouli Sarkar
.... For the Resp./writ petitioner.

Party/parties is/are represented in the order of their name/names as printed above in the cause title.

Mr. Das, Learned Advocate, appears in support of the appeal.

The appeal is directed against the order of the Hon'ble Single Bench dated 21st December, 2022 in the writ petition being WPA 27669 of 2022. The Hon'ble Single Bench found the initiation of Disciplinary Proceeding (*DP*) against the writ petitioner/the present respondent to this appeal to be utterly perverse.

The Hon'ble Single Bench noticed from the documents on record that the Writ Petitioner/the Respondent No.1 to the present appeal while acting as the temporary Head of the Department of Social Welfare under the Visva Bharati University (for short, the University), forwarded and recommended the prayer for

Child Care Leave (CCL) placed before him by an Assistant Professor of the said Department.

The CCL was ultimately sanctioned by the Respondent No.2/the Vice Chancellor of the University.

In the above conspectus of facts, the decision of the University to initiate a *DP* against the writ petitioner after a period of one year from the date of recommendation (*supra*) was found to be perverse by the Hon'ble Single Bench, particularly in a situation when the writ petitioner was, at the material point of time by virtue of his position as the Acting Head of the Social Welfare Department competent to forward and recommend the prayer for leave to the competent authority which ultimately sanctioned the same.

The Hon'ble Single Bench was further pleased to notice a communication dated 25th November, 2022, that is after a period of nearly one year from the date of recommendation of the leave, on the basis of which the University has tried to portray that the Writ Petitioner has admitted his guilt.

Mr. Sanyal, Learned Counsel, assisted by Ms. Sarkar, Learned Advocate appearing for the Respondent No.1/the Writ Petitioner, draws the attention of this Court to Paragraphs 24, 25 and 26 of the writ petition which is annexed to the application filed in connection with this appeal being CAN 1 of 2023.

The said Paragraphs read as follows :-

“ 25. The aforesaid letter dated 25th November, 2022 is not written by the petitioner. He was forced to put his signature on the said letter by the respondent no.2.

26. That the said letter dated 25th November, 2022 was not written by the petitioner and that the petitioner was forced to put his signature on the said letter would be evident from the fact that the said letter states that the petitioner had “approved” the leave request of Dr. Sudeshna Saha, when, in fact, the petitioner had only recommended such leave and not approved the same. Approval was done by the respondent no.2 himself.”

Mr. Sanyal submits and, in the opinion of this Court correctly so, that at all points of time before the Hon’ble Single Bench, the position was never taken by the University that the writ petitioner approved the leave. However, the recommendation for the leave was found to be blameworthy and hence was used as the subject matter of the *DP*. Accordingly, Mr. Sanyal submits, again correctly so in the view of this Court, that the letter dated 25th November, 2022 was contrived by the University and the writ petitioner was compelled to put his signature on the said letter.

On behalf of the University, it is submitted that the Writ Court would normally restrain itself from interfering

in a *DP* which is a factual and quasi-judicial exercise best left to the administrative authority in charge of the *DP*.

Having heard the parties and closely examining the materials placed, this Court finds no reason to interfere with the order of the Hon'ble Single Bench on the ground that the Hon'ble Single Bench was correct on the basis of admitted facts, in quashing a perverse chargesheet and equally perverse disciplinary action based on such chargesheet.

For the above reasons, **MAT 165 of 2023** with **CAN 1 of 2023** stand **dismissed**.

Since this adjudication has proceeded on the basis of the materials on record, no further affidavits are invited. Accordingly, other allegations, if any, stand denied and disputed.

Parties to act in terms of the copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with all necessary formalities.

(Supratim Bhattacharya, J.) (Subrata Talukdar, J.)